

MINUTES OF MEETING OF THE CORPORATIONS COMMITTEE
June 3, 2005

A regular meeting of the Corporations Committee (the "Committee") of the Business Law Section of the State Bar of California was held at the Marriott Hotel (Los Angeles Airport) on June 3, 2005. Attendance was as follows:

MEMBERS PRESENT:

Curt C. Barwick
Christopher A. Delfino
Bruce R. Deming
James F. Fotenos
Matthew R. Gemello
Steve Harmon*
Steven K. Hazen
Mark T. Hiraide
Victor Hsu
Brian D. McAllister
William R. Sawyers
David Serepca
Teri Shugart*
Lemoine Skinner III
Steven B. Stokdyk
Bertha Cortes Willner
Brian M. Wong

MEMBERS ABSENT:

Nina L. Hong
Brian A. Lebrecht
Stewart Laughlin McDowell
Deborah J. Ruosch
Jennifer Lynn Sostrin
Suzanne L. Weakley
Russell J. Wood

LIAISONS AND GUESTS PRESENT:

Colleen Monahan, Department of Corporations*
Larry Doyle, State Bar of California, Office of Governmental Affairs*
R. Bradbury Clark, Liaison, Nonprofit Organizations Committee

*Via Telephone

The minutes summarize discussions primarily in the order items were listed on the Agenda for the meeting previously circulated to members of the Committee, which is not necessarily the order in which the items were actually taken up at the meeting. The Committee did not take up those topics listed on the Agenda that are not described in these minutes.

I. ADMINISTRATIVE MATTERS

1. Opening Remarks and Announcements: The meeting was called to order by Co-Chairs Fotenos and McAllister at 9:30 a.m. Mr. Fotenos thanked the members of the Committee in attendance and informed them that a quorum was present.
2. Approval of Minutes of February and May Meetings: The minutes for the meetings on February 4, 2005 and May 6, 2005 were approved in the form circulated.

II. AGENCY AND LIAISONS' REPORTS

1. Department of Corporations: Colleen Monahan reported on numerous management changes within the Department of Corporations during the past month. Ms. Monahan also reported that the Department was continuing its review of the Uniform Securities Act, but noted that recent changes in personnel had slowed the process down considerably. Finally, Ms. Monahan noted that it seemed to be a very quiet year with respect to new legislation, although she did indicate that the Department was following several lending and finance related bills including AB 1419 and AB 502 (relating to finance lenders) and AB 901 (relating to covered loans).
2. Office of Governmental Affairs: Larry Doyle confirmed that there was relatively little legislative activity relating to corporations. Mr. Doyle then reported on the status of several bills including AB 241 (relating to mergers/certificate of satisfaction), SB 119 (relating to board meetings), SB 627 (to remove usury exemption for transactions involving real property), SB 702 (relating to associations), AB 339 (relating to limited partnerships/reorganizations), AB 310 (relating to investment advisors/management fees), AB 243 (relating to life insurance/viatical settlements and SB 192 (relating to annuities).
3. Corporate Law Departments: Mr. Sawyers reported that the Corporate Law Department Section was putting the finishing touches on their new magazine, which they intend to use as a marketing piece for the Section.
4. Non-Profit Corporations: Mr. Delfino reported that the Section is studying AB 702 (relating to associations), previously discussed by Mr. Doyle, as well as the Uniform Non-Profit Corporation Act (not yet introduced in California). The Section also has been interested in the Non-Profit Integrity Act of 2004 and has noted several problems with the Act as drafted.
5. Partnerships: Mr. Deming indicated that the Partnership Section has been discussing various ways to increase involvement and attendance. The Section also is studying various ways to make its educational materials more available and useful. Finally, the Section has been following AB 339, as well (previously reported on by Mr. Doyle).

III. SUBCOMMITTEE REPORTS

1. Legislation: Mr. Stokdyk discussed the status of AB 1513 (Cogdill), a “spot bill” that has not yet been utilized. Mr. Stokdyk also reviewed the status of various technical and substantive amendments to the Corporations Code impacting limited liability companies. Mr. McAllister reported on the current status of SB 119 (Ackerman). Mr. McAllister informed the Committee that the most recent amendments to the bill inadvertently eliminated the business judgment rule. Accordingly, the bill will need to be further amended.
2. Communication and Website Development: Victor Hsu updated the Committee on the status of migrating from the Committee’s current extranet (hosted by Fulbright & Jaworski) to an extranet similar to that currently used by the Franchise Law Committee. Mr. Hsu also informed the members of that the Committee’s website now contains a “Practitioner’s Corner.”

IV. 2004-2005 AGENDA--OTHER PROJECTS

1. Opinions Report. Co-Chair Jim Fotenos reported that the Opinions Report is “very close” to being finalized. He indicated that he was still receiving a few corrections and comments and that he was integrating those comments into the Report. Mr. Fotenos indicated that he believed that the final Opinions Report would be posted to the website and then published in the near future.
2. Handbook to Incorporate in California. Mr. Fotenos, together with Ms. Shugart, updated the Committee members on the status of the Committee’s Handbook to Incorporate in California. The members were informed that the Handbook had been substantively finalized and that it was ready for publication. Procedurally, the Committee, upon motion by Mr. Hazen and seconded by Mr. Stokdyk, authorized the Co-Chairs to submit the Handbook to the General Counsel for the State Bar to verify that it is not a derivative work along with information from its authors and editor demonstrating that it is original work. The Committee, next, upon further motion by Mr. Hazen and seconded by Mr. Serepca, conditionally approved the Handbook (subject to receipt of such conclusion from the General Counsel), with such changes as the Co-Editors and Co-Chairs shall deem appropriate.
3. USA Act Amendments: Mark Hiraide delivered an informal summary and analysis of the Uniform Securities Act. He indicated that he anticipated that a written report would be presented to the Committee in July.
4. Attorney Conduct Rules. Mr. Hazen noted that a draft letter had been prepared to R. William Ide, Esq, Chair of the ABA Task Force on the Attorney-Client Privilege. Mr. Hazen reported that the letter arose out of a question that he had been asked while testifying before the Task Force earlier this year. After reviewing the letter, the Committee upon motion duly made by Mr. McAllister

and seconded by Ms. Weakley unanimously recommended that the letter be sent to the Executive Committee for its review and approval.

5. Close Corporation Model Act Adoption. Mr. Serepca gave a brief update of the Subcommittee's progress in its review of the Model Act. He indicated that the Subcommittee should have a more formal report ready for the August meeting.
6. Commentary Annotations to National Venture Capital Association Model Forms. Mr. Skinner informed the Committee that he hoped to have completed his review by next month.

V. OTHER BUSINESS

1. Vantage point Partners 1996 v. Examen, Inc.: The Committee discussed this recent Delaware case at some length given its possible impact upon and presumed importance to California practitioners.
2. Committee Officers: The Co-Chairs announced that following individuals had been selected to serve as officers for the next year:

<u>Name</u>	<u>Position</u>
Matthew R. Gemello	Co-Chair
Steven B. Stokdyk	Co-Chair
Christopher A. Delfino	Vice Chair - Legislation
David Serepca	Co-Vice Chair –Communications
Jennifer Lynn Sostrin	Co-Vice Chair –Communications
Suzanne L. Weakley	Vice Chair – Education
Bertha Cortes Willner	Secretary

The meeting was adjourned at approximately 12:20 p.m.

/s/ Curt C. Barwick

Curt C. Barwick, Co-Secretary